

**MINUTES**  
**IN THE UNITED STATES DISTRICT COURT FOR THE**  
**MIDDLE DISTRICT OF ALABAMA NORTHERN, DIVISION**

**HON. CHARLES S. COODY, MAG. JUDGE     AT     MONTGOMERY, ALABAMA**

**DATE COMMENCED:     6/5/06                     AT             9:00 a.m. to 10:57 a.m.**

**DATE COMPLETED:     6/5/06                     FTR Recorded**

AMIE SMITH

Plaintiff

vs..

KENTUCKY FRIED CHICKEN

Defendant

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CASE NO. 2:06CV27-CSC

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PLAINTIFF

APPEARANCES:

DEFENDANT

Atty. Pricilla Black Duncan

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Atty. Thomas A. Davis

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COURT OFFICIALS PRESENT:

COURTROOM DEPUTY: WANDA STINSON

LAW CLERK: CORRIE LONG

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( X ) OTHER PROCEEDINGS:     **EVIDENTIARY HEARING**

**SEE MINUTES ATTACHED**

LOG OF PROCEEDINGS ELECTRONICALLY RECORDED			
Description	Evidentiary Hearing - 2:06cv27 - CSC		
Date	6 / 5 /2006	Location	Courtroom 4B
Time	Speaker	Note	
9 :00:44 AM	Court	Court convenes; Parties present as note; Discussion as to the purpose of hearing as to whether a signature was placed on a file folder;	
9 :00:55 AM	Atty. Davis	Response - It was place on a filed folder and original application both which contained an arbitration agreement;	
9 :01:21 AM	Court	Discussion as to the issue of a contract and the agreement to arbitrate;	
9 :01:25 AM	Atty. Davis	Response - There has to be a policy;	
9 :01:33 AM	Court	Response re: notice to the employee;	
9 :01:41 AM	Atty. Davis	Response;	
9 :02:01 AM	Court	Wanted to addresses some concerns;	
9 :02:13 AM	Atty. Davis	Refers the court to the Bradford case;	
9 :02:38 AM	Court	What's the Plaintiff's position?	
9 :02:41 AM	Atty. Duncan	Addresses the court as that arbitration was never mentioned;	
9 :02:41 AM	Court	Did she sign the application?;	
9 :02:47 AM	Atty. Duncan	Response - she fill out the application	
9 :03:05 AM	Court	That's not what I asked? Did she sign the application?	
9 :03:07 AM	Atty. Duncan	Yes.	
9 :03:18 AM	Court	Discussions as to whose burden it is; It would be better for the Defendant to go first; Do you wish the rule?	
9 :03:30 AM	Atty. Davis	I don't;	
9 :03:33 AM	Atty. Duncan	No.	
9 :04:15 AM	Atty. Davis	Calls Chris Capps; witness is sworn and seated; Discussion and review of deft's Exh. #1;	
9 :08:21 AM	Court	No objections, Deft's Exh. #1 is admitted;	
9 :08:30 AM	Atty. Davis	Cont'd testimony; Discussion and review of Deft's Exh. #2;	
9 :11:23 AM	Court	No objections, Deft's Exh. #2 is admitted;	
9 :11:27 AM	Atty. Duncan	Cross - examination;	
9 :13:10 AM	Court	Witness is excused;	
9 :13:14 AM	Atty. Davis	Calls Glenda Johnson; witness is sworn and seated; Discussion and review of Deft's Exh. #3;	
9 :19:24 AM	Court	No objections, It's admitted;	
9 :19:30 AM	Atty. Davis	Cont'd testimony; Discussion of Deft's Exh. #4;	
9 :20:51 AM	Court	No objections, It's admitted;	
9 :20:58 AM	Atty. Davis	Cont'd testimony;	
9 :26:53 AM	Atty. Duncan	Cross - examination; Discussions as to witness past employment with KFC;	
9 :27:40 AM	Atty. Davis	Objection - Relevance;	
9 :27:41 AM	Court	What's the purpose of the question;	
9 :27:44 AM	Atty. Duncan	Impeachment - she was accused of theft;	
9 :27:52 AM	Court	How would an accusation be impeachment under the circumstances?	

9 :27:58 AM	Atty. Duncan	Response;
9 :28:08 AM	Court	Do you have any evidence that she lied or did some thing improper?;
9 :28:17 AM	Atty. Duncan	Response;
9 :28:27 AM	Court	The objection is sustained;
9 :28:27 AM	Atty Duncan	Cont'd testimony;
9 :34:47 AM	Court	Witness is excused;
9 :34:53 AM	Davis	Calls Richard Amory Roper , Expert handwriting examiner; witness is sworn and seated; Discussion and review of Def's Exh. #5; Discussion and review of Deft's Exh. #6; Move to admit Deft's Exh. #6;
9 :43:33 AM	Court	No objections, It's admitted;
9 :43:42 AM	Davis	Cont'd testimony;
9 :50:01 AM	Atty. Duncan	Cross - examination;
9 :59:54 AM	Court	Witness is excused;
10:00:02 AM	Atty. Duncan	Calls Amie Smith; witness is sworn and seated;
10:11:03 AM	Atty. Davis	Cross - examiation; Request to have copy of plaintiff,s driver's license to look at signature;
10:27:34 AM	Court	We can make a copy;
10:27:52 AM	Court	Discussions as to the original application;
10:29:11 AM	Court	Court will take a 10 Min Break;
10:42:06 AM	Court	Reconvenes;
10:42:10 AM	Atty. Duncan	Re - direct;
10:43:21 AM	Court	Witness is excused;
10:43:27 AM	Atty. Duncan	Calls Michelan Rawls ; witness is sworn and seated;
10:52:58 AM	Atty. Davis	Cross - examination;
10:54:59 AM	Atty. Duncan	Ask that all exhibit be redact to exclude the social security number;
10:55:09 AM	Court	We can redact them. Counsel advised to redact exhibits to take off Ms. Smith's social security number before leaving today;
10:55:23 AM	Court	Witness is excused;
10:55:26 AM	Davis	Addresses the court regarding plaintiff's counsel suggesting that plaintiff's signatures were cut and paste ; Can have Chris Capps testify to the originals;
10:55:44 AM	Court	That's not necessary; Anthing else from plaintiff's
10:55:53 AM	Atty. Duncan	No.
10:55:53 AM	Court	Any rebuttal?
10:55:53 AM	Atty. Davis	No.
10:55:55 AM	Court	Based on the evidence presented the court finds by a preponderance of the evidence that Ms. Smith did signe the agreement to arbitrate, that there is an agreement, the court will enter a written order confirming that and stay further proceeding and compelling arbitration;
10:56:19 AM	Court	Side bar with counsel;
10:57:51 AM	Court	Court is recessed.